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New York

May 28, 2015

**VIA E-MAIL**

Honorable Sarah Netburn  
United States District Court  
500 Pearl Street, Courtroom 12D  
New York, New York 10007-1312

Re: JPMorgan Chase Bank, N.A. v. Freyberg  
Case No. 14-CV-6851

Dear Magistrate Judge Netburn:

This letter is being transmitted by e-mail rather than by ECF in accordance with Rule 1.a of Your Honor's Individual Rules of Practice, as it refers to subject matter previously placed under seal by the Court (ECF No. 46). I write to request clarification regarding Defendant's use of the transcript of that portion of the April 29, 2015 conference which was held in camera and placed under seal in its opposition to Plaintiff's motion for summary judgment.

During the April 29 conference, the Court indicated that Defendant could request an adverse inference concerning Plaintiff's destruction of certain discovery documents before Judge Berman. Defendant intends to assert that Plaintiff's destruction of documents requires denial of its summary judgment motion, consistent with the holding in E.E.O.C. v. JP Morgan Chase Bank, N.A., 295 F.R.D. 166 (S.D.Oh. 2013). In support of its position, Defendant will likely submit excerpts of the April 29 conference transcript.

It is respectfully requested that the Court advise whether Defendant's opposition papers should be electronically filed or whether the same should be filed under seal.

The parties shall meet and confer in an effort to file on ECF documents without redactions. In the event that the parties cannot agree about whether an excerpt from a proceeding transcript may be publicly filed, the parties shall file a limited redacted version on ECF and submit to the Court an unredacted version, with the redacted sections highlighted for the ease of the Court. The party seeking to redact and file under the seal those portions must also submit an application setting forth the standards for filing under seal, as set forth in the case law and identified in my Individual Rules of Practice.

**SO ORDERED.**

  
SARAH NETBURN  
United States Magistrate Judge

New York, New York

May 28, 2015